

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

-PS-O-

2005 CV 0447 Sc

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JAMES M. WEST, ABDUL M. SHARIFF, and
DIVINE C. ALLAH, on behalf of themselves and all other
persons similarly situated,

Plaintiffs,

05-CV-0447Sc

-v-

GLENN S. GOORD, et al., ,

MEMORANDUM and ORDER

Defendants.

Plaintiffs James M. West, Abdul M. Shariff and Divine C. Allah who are inmates at the Five Points Correctional Facility, have submitted to the Court a complaint, which appears to be signed by all three plaintiffs. (Docket No. 1). However, only plaintiff James West has submitted an affidavit of poverty seeking permission to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a), and a signed authorization, pursuant to 28 U.S.C. § 1915(b), authorizing the institution in which the plaintiff is confined to pay a \$150.00 filing fee¹ from his inmate account. (Docket No. 2). See the attached Notice.

Plaintiffs Abdul Shariff and Divine C. Allah

Because plaintiffs Abdul Shariff and Divine C. Allah have not submitted an affidavit of poverty seeking permission to proceed *in forma pauperis*, pursuant to 28 U.S.C. § 1915(a), and a signed authorization, pursuant to 28 U.S.C. § 1915(b), authorizing the

¹As further addressed below, the filing fee has been increased to \$ 250.00 for all civil actions filed on or after February 7, 2005.

institution in which they are is confined to pay the \$250.00 filing fee from their inmate accounts this action cannot proceed on their behalf unless and until they each file with the Court both an application to proceed *in forma pauperis* and an authorization by July 27, 2005.

The Clerk of the Court is directed to send to plaintiffs Abdul M. Shariff and Divine C. Allah, a new form application to proceed as a poor person and a prisoner authorization form.

By July 27, 2005, plaintiffs Abdul M. Shariff and Divine C. Allah must either submit both an application to proceed *in forma pauperis* and a prisoner authorization form or pay the full filing fee of \$ 250.00. These two plaintiffs are forewarned that their failure to comply with this order by either submitting both the application to proceed *in forma pauperis* and prisoner authorization form or paying the filing fee by the designated date will result in the dismissal of this case on their behalf without prejudice.

If plaintiffs Abdul M. Shariff and Divine C. Allah have not complied with this order by July 27, 2005, the Clerk of the Court is directed to dismiss either one or both of them as plaintiffs (depending on which one, if either of them, complies with this order) without further order.

Plaintiff James West

As noted in footnote 1, *supra*, effective February 7, 2005, the filing fee for civil actions increased from \$ 150.00 to \$ 250.00 for all civil actions filed on or after February 7, 2005. Plaintiff James West's authorization authorizes the institution to deduct only

\$ 150.00 from his inmate account. Before this action can proceed on behalf of plaintiff James West the Court must receive another signed Authorization from him by **July 27, 2005** authorizing the institution in which he is confined to pay the full **\$250.00** filing fee, instead of the \$ 150.00 filing fee previously authorized by him.

The Clerk of the Court is directed to send a new prisoner authorization form to plaintiff James West.

Accordingly, plaintiff James West has until **July 27, 2005** to furnish the Court with another signed Authorization (a copy of which is attached hereto) authorizing the institution in which the plaintiff is confined to pay the full \$250.00 filing fee. If the Court does not receive another signed Authorization, on or before such date, **plaintiff James West will be dismissed as a plaintiff in this action without further notice** to him and, if any part of the filing fee has already been submitted to the Court from the institution, it will be returned to the institution for deposit in the plaintiff West's inmate account.

IT IS HEREBY ORDERED, that the Clerk of the Court is to dismiss plaintiff Abdul M. Shariff from this action after **July 27, 2005** if he has not provided the Court with both an application to proceed *in forma pauperis* and a signed Authorization **or** has not paid the full filing fee of \$ 250.00 by that date;

FURTHER, that the Clerk of the Court is to dismiss plaintiff Divine C. Allah from this action after **July 27, 2005** if he has not provided the Court with both an application to proceed *in forma pauperis* and a signed Authorization **or** has not paid the full filing fee of \$ 250.00 by that date;

FURTHER, that the Clerk of the Court is to dismiss plaintiff James West from this action after **July 27, 2005** if he has not provided the Court with another signed Authorization.

SO ORDERED.

DATED: Buffalo, New York
June 27, 2005



JOHN T. ELFVIN
UNITED STATES DISTRICT JUDGE